

From: Randy Nye
To: 'microsoft.atr(a)usdoj.gov','attorney.general(a)po...
Date: 12/28/01 2:38pm

Regarding: Microsoft Corporation Antitrust Litigation Settlement Agreement,
MDL Docket No. 1332

I have serious concerns, questions, and problems with the proposed Microsoft settlement. The reasons why I feel that the settlement is unfair and does not properly compensate the plaintiffs for the charges they have filed against Microsoft in their civil suits are the following.

- * The final outcome of the settlement will be a very large program aimed at training our students attending the underprivileged K-12 schools and their teachers on how to use Microsoft software.

- * This program is designed to guide the teachers on how to use Microsoft software in their education curriculum.

- * The computers purchased through this program will be limited to those which are certified by Microsoft. This means that these computers will be configured to run Microsoft software.

- * The settlement excludes completely the ability for rival software companies from providing software and services to these underprivileged K-12 schools, which compete directly with Microsoft's own software products in the PC software market place. This provision astounds me. It would be more appropriate in an agreement where the Justice Department were the offending party making amends to Microsoft.

- * The fact is there is a budding new software industry based on free software otherwise known as GNU or Open Source software. The term free applies to both free in cost and free as in freedom. This new software industry is based on software written by many programmers working together through loosely tied collaboration using the communication tools provided by the Internet. (e-mail, file transfers, web browsing).

- * These same tools of communication and methods of collaboration which the Internet provides, are the ones which we wish for the students of the underprivileged K-12 schools to take advantage. This is due to the fact that this is the same modality by which our scientists use to achieve the latest advances in science and technology.

- * I am aware that Microsoft is working to try and stop this new software industry based on GNU/Open Source software. This GNU/Open Source software industry is one of Microsoft's biggest concerns since it threatens its dominance in the personal computer software market. The current settlement is structured to directly shut out this segment of the software industry.

I do not understand why you entered into this settlement agreement with Microsoft which is so clearly beneficial to Microsoft. I would have expected the agreement to pursue corrections on inappropriate conduct, not rewards. What I am interested in seeing is;

- * Ensure that the plaintiffs understand our concerns regarding their settlement with Microsoft.

* Ensure that you, as attorneys representing the plaintiffs in this civil class action suit, inform your clients that there are no provisions in their settlement to allow free and open competition for the needed software products used to upgrade the computers, networks and computer based teaching aids for the underprivileged K-12 schools the settlement funds will be targeting.

* Find ways to actually halt actions found to be illegal and not be used to support and dictate further market penetration.

I would further request you to change the terms of the settlement such that Microsoft have no say what so ever in how the money of the settlement be spent. This should be accomplished by having Microsoft donate cash grants to the underprivileged K-12 schools which were targeted in the original settlement. The size of the individual grants should be in proportion to the number of students enrolled in the school. The schools should then be directed to spend the money on computer hardware, software, networking infrastructure and Internet connection bandwidth for systems used by the teachers and students, as they best see fit for themselves. We emphasize that these funds be restricted to upgrading the IT infrastructure just mentioned, used directly in the classroom environment. These would be upgrades to system used in general class rooms, libraries, science labs, computer clubs or which ever other teaching forum the school has developed for the teaching of their students. The role of the Foundation, as created in the settlement agreement, should expend its efforts to ensure this funding policy be enforced.

Furthermore, in order to ensure that Microsoft has no part in directing how the settlement funds be spent, the Foundation created to manage the settlement funds should be made up of people from our leading science and education institutions. Examples of the people who should be sought to sit on the blue ribbon board of this foundation would be the head of the National Science Foundation, the head of the National Academy of Sciences, the Presidential Science Adviser, directors of our national laboratories, presidents of our renown universities, heads of teachers unions, the Secretary of Education, the Secretary of Commerce or other people who have great knowledge of both education, its advancement and the free and open market system upon which the strength of this country is founded. The task of forming a search committee for these board members should be given to Honorable Judge Motz or someone to which he delegates this task.

Thank you for your time and your assistance in this matter.

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